IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7750 OF 2005

Sunil Shivappa Mali Applicant

versus

The State of Maharashtra Respondent

R.V.More with Umesh Mankapure for applicant.

K.V.Saste, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 2nd December 2005

PC :

1. Heard Shri More appearing for the applicant and Shri Saste - APP for the respondent.

2. CR No.63 of 2005 registered at Sangli Rural Police Station, District Sangli at the instance of complainant prosecutrix alleges offence punishable under sections 376 and 506 of IPC against the applicant.

3. The statement of prosecutrix recorded on 31st August 2005 and 1st September 2005 have been perused by me with the assistance of Shri More

and Shri Saste. The prosecutrix alleges that from 19th July 2002 the applicant who is a cousin uncle of the prosecutrix, has raped her. She has in her own statement pointed out that after the incident, she has accompanied the applicant to Tasgaon. This is her version in her first statement recorded on 31st August 2005. It is stated by her that the applicant disliked her marriage and settling down thereafter in a distinct village. She has said that the complaint is lodged after considerable delay i.e. nearly after three years only because of the harassment and threats by the applicant.

4. In the further statement recorded on 1st September 2005, she has stated that she has left her house after she returned from her husband and in-laws place. She has stated that on her own she has left the in-laws place and now she has started residing at Miraj. It is at Miraj where she is presently a commercial sex worker, that the applicant has committed the offence.

5. In the light of the clear discrepancies in the versions of the prosecutrix herself in these two statements and they being prima facie unreliable coupled with enormous delay, in my

view, the applicant who has been in custody from 2nd September 2005, needs to be enlarged on bail. The investigations are complete. The charge sheet is filed. The applicant has no criminal antecedents. However, considering the serious nature of the charge, stringent conditions should be imposed on the applicant.

6. Hence, following order :-

(i) The applicant is enlarged on bail in connection with C.R.No.63/2005 registered with Sangli Gramin Police Station, District Sangli, subject to furnishing a personal bond of Rs.10,000/- (Rs.Ten thousand only) with one solvent local surety;

(ii) The applicant shall not enter the Miraj City limits till the conclusion of trial;

(iii) The applicant shall report once in a fortnight at Sangli Rural Police Station, Sangli District between 03.00 to 05.00 p.m;

(iv) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any

prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(v) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(vi) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)